Appl. No.

: 09/770562

Confirmation No.

: 8513

Applicant

: Bend Research, Inc.

TC/A.U.

: 1618

Filed

: January 26, 2001

Examiner

: FUBARA, BLESSING M

Customer No. :

Docket No.

: DES/0003.0562

Title

: SOLID PHARMACEUTICAL DISPERSIONS WITH ENHANCED

BIOAVAILABILITY

601 SW Second Avenue

Suite 1600

Portland, OR 97204-3157

December 18, 2009

Mail Stop Appeal Brief -- Patents Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

### RESUBMISSION OF PAGE 2 OF APPEAL BRIEF

#### Dear Sir:

In response to the Notification of Non-Compliant Appeal Brief dated December 11, 2009, there is submitted herewith a revised page 2 of the previously filed Appeal Brief dated November 29, 2009.

Respectfully submitted,

Chernoff, Vilhauer, McClung & Stenzel, L.L.P. 601 SW Second Avenue Suite 1600

Portland, OR 97204-3157

By:

Dennis E. Stenzel Reg. No. 28,763

Telephone No.: (503) 227-5631

Fax No. (503) 227-4373

### Status of Claims

Claims 2-3, 5-22, 24-27, 39-48 and 52 have been cancelled and claims 28-35 and 38 have been withdrawn. Claims 1, 4, 23, 36-37, 49-51 and 53-56 are pending and their rejection is appealed; a copy of the claims on appeal is set forth in the Claims Appendix.

## **Status of Amendments**

All amendments have been entered.

### **Summary of Claimed Subject Matter**

Claim 1, the only independent claim in the application, is directed to a composition of matter comprising a spray-dried dispersion, the dispersion consisting of a low-solubility drug and the polymer hydroxypropyl methylcellulose acetate succinate (HPMCAS). Published US Application 2002.009494A1 ('494), paragraphs [0012], [0085] and [0086]. The drug is molecularly dispersed and amorphous in the dispersion. '494 paragraph [0027]. The dispersion has a drug:polymer ratio between 1:04 and 1:20. '494 paragraph [0049].

# Grounds of Rejection to be Reviewed on Appeal

There are five issues on appeal:

1. whether claims 1, 4, 49-51 and 53-56 are anticipated under §102(b) by Miyajima EP 0 344 603;